



Substitute Senate Bill No. 455

Public Act No. 09-168

AN ACT CONCERNING THE NURSING HOME BILL OF RIGHTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 19a-550 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(b) There is established a patients' bill of rights for any person admitted as a patient to any nursing home facility or chronic disease hospital. The patients' bill of rights shall be implemented in accordance with the provisions of Sections 1919(b), 1919(c), 1919(c)(2), 1919(c)(2)(D) and 1919(c)(2)(E) of the Social Security Act. The patients' bill of rights shall provide that each such patient: (1) Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time of admission and during the patient's stay, of the rights set forth in this section and of all rules and regulations governing patient conduct and responsibilities; (2) is fully informed, prior to or at the time of admission and during the patient's stay, of services available in the facility, and of related charges including any charges for services not covered under Titles XVIII or XIX of the Social Security Act, or not covered by basic per diem rate; (3) is entitled to choose the patient's own physician and is fully informed, by a physician, of the patient's medical condition unless medically contraindicated, as documented by

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the physician in the patient's medical record, and is afforded the opportunity to participate in the planning of the patient's medical treatment and to refuse to participate in experimental research; (4) in a residential care home or a chronic disease hospital is transferred from one room to another within the facility only for medical reasons, or for the patient's welfare or that of other patients, as documented in the patient's medical record and such record shall include documentation of action taken to minimize any disruptive effects of such transfer, except a patient who is a Medicaid recipient may be transferred from a private room to a nonprivate room, provided no patient may be involuntarily transferred from one room to another within the facility if (A) it is medically established that the move will subject the patient to a reasonable likelihood of serious physical injury or harm, or (B) the patient has a prior established medical history of psychiatric problems and there is psychiatric testimony that as a consequence of the proposed move there will be exacerbation of the psychiatric problem which would last over a significant period of time and require psychiatric intervention; and in the case of an involuntary transfer from one room to another within the facility, the patient and, if known, the patient's legally liable relative, guardian or conservator or a person designated by the patient in accordance with section 1-56r, is given at least thirty days' and no more than sixty days' written notice to ensure orderly transfer from one room to another within the facility, except where the health, safety or welfare of other patients is endangered or where immediate transfer from one room to another within the facility is necessitated by urgent medical need of the patient or where a patient has resided in the facility for less than thirty days, in which case notice shall be given as many days before the transfer as practicable; (5) is encouraged and assisted, throughout the patient's period of stay, to exercise the patient's rights as a patient and as a citizen, and to this end, has the right to be fully informed about patients' rights by state or federally funded patient advocacy programs, and may voice grievances and recommend changes in policies and services to facility

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staff or to outside representatives of the patient's choice, free from restraint, interference, coercion, discrimination or reprisal; (6) shall have prompt efforts made by the facility to resolve grievances the patient may have, including those with respect to the behavior of other patients; (7) may manage the patient's personal financial affairs, and is given a quarterly accounting of financial transactions made on the patient's behalf; (8) is free from mental and physical abuse, corporal punishment, involuntary seclusion and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the patient's medical symptoms. Physical or chemical restraints may be imposed only to ensure the physical safety of the patient or other patients and only upon the written order of a physician that specifies the type of restraint and the duration and circumstances under which the restraints are to be used, except in emergencies until a specific order can be obtained; (9) is assured confidential treatment of the patient's personal and medical records, and may approve or refuse their release to any individual outside the facility, except in case of the patient's transfer to another health care institution or as required by law or third-party payment contract; (10) receives quality care and services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual would be endangered, and is treated with consideration, respect, and full recognition of the patient's dignity and individuality, including privacy in treatment and in care for the patient's personal needs; (11) is not required to perform services for the facility that are not included for therapeutic purposes in the patient's plan of care; (12) may associate and communicate privately with persons of the patient's choice, including other patients, send and receive the patient's personal mail unopened and make and receive telephone calls privately, unless medically contraindicated, as documented by the patient's physician in the patient's medical record, and receives adequate notice before the patient's room or roommate in the facility is changed; (13) is entitled to organize and participate in

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patient groups in the facility and to participate in social, religious and community activities that do not interfere with the rights of other patients, unless medically contraindicated, as documented by the patient's physician in the patient's medical records; (14) may retain and use the patient's personal clothing and possessions unless to do so would infringe upon rights of other patients or unless medically contraindicated, as documented by the patient's physician in the patient's medical record; (15) is assured privacy for visits by the patient's spouse or a person designated by the patient in accordance with section 1-56r and, if the patient is married and both the patient and the patient's spouse are inpatients in the facility, they are permitted to share a room, unless medically contraindicated, as documented by the attending physician in the medical record; (16) is fully informed of the availability of and may examine all current state, local and federal inspection reports and plans of correction; (17) may organize, maintain and participate in a patient-run resident council, as a means of fostering communication among residents and between residents and staff, encouraging resident independence and addressing the basic rights of nursing home and chronic disease hospital patients and residents, free from administrative interference or reprisal; (18) is entitled to the opinion of two physicians concerning the need for surgery, except in an emergency situation, prior to such surgery being performed; (19) is entitled to have the patient's family or a person designated by the patient in accordance with section 1-56r meet in the facility with the families of other patients in the facility to the extent the facility has existing meeting space available which meets applicable building and fire codes; (20) is entitled to file a complaint with the Department of Social Services and the Department of Public Health regarding patient abuse, neglect or misappropriation of patient property; (21) is entitled to have psychopharmacologic drugs administered only on orders of a physician and only as part of a written plan of care developed in accordance with Section 1919(b)(2) of the Social Security Act and designed to eliminate or modify the

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symptoms for which the drugs are prescribed and only if, at least annually, an independent external consultant reviews the appropriateness of the drug plan; (22) is entitled to be transferred or discharged from the facility only pursuant to section 19a-535 or section 19a-535b, as applicable; (23) is entitled to be treated equally with other patients with regard to transfer, discharge and the provision of all services regardless of the source of payment; (24) shall not be required to waive any rights to benefits under Medicare or Medicaid or to give oral or written assurance that the patient is not eligible for, or will not apply for benefits under Medicare or Medicaid; (25) is entitled to be provided information by the facility as to how to apply for Medicare or Medicaid benefits and how to receive refunds for previous payments covered by such benefits; (26) on or after October 1, 1990, shall not be required to give a third party guarantee of payment to the facility as a condition of admission to, or continued stay in, the facility; (27) [in the case of an individual who is entitled to medical assistance,] is entitled to have the facility not charge, solicit, accept or receive [, in addition to any amount otherwise required to be paid under Medicaid,] any gift, money, donation, third-party guarantee or other consideration as a precondition of admission or expediting the admission of the individual to the facility or as a requirement for the individual's continued stay in the facility; and (28) shall not be required to deposit the patient's personal funds in the facility.

Sec. 2. Subsection (e) of section 19a-550 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(e) Any facility that negligently deprives a patient of any right or benefit created or established for the well-being of the patient by the provisions of this section shall be liable to such patient in a private cause of action for injuries suffered as a result of such deprivation. Upon a finding that a patient has been deprived of such a right or

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benefit, and that the patient has been injured as a result of such deprivation, damages shall be assessed in the amount sufficient to compensate such patient for such injury. The rights or benefits specified in subsections (b) to (d), inclusive, of this section may not be reduced, rescinded or abrogated by contract. In addition, where the deprivation of any such right or benefit is found to have been wilful or in reckless disregard of the rights of the patient, punitive damages may be assessed. A patient may also maintain an action pursuant to this section for any other type of relief, including injunctive and declaratory relief, permitted by law. Exhaustion of any available administrative remedies shall not be required prior to commencement of suit under this section.

Approved June 29, 2009